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WORKING PAPERS FOR FULL EMPLOYMENT

Social Policy Perspectives on Employment

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February 1982

Price: $7.00

RACIAL AND ETHNIC DISCRIMINATION IN EMPLOYMENT

Working Paper #5

SOCIAL PLANNING COUNCIL
OF METROPOLITAN TORONTO

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A member Agency of the
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(C.U.P.E. 1777)

Acknowledgements:

The Social Planning Council of Metropolitan Toronto would like to acknowledge the support of the Secretary of State Canada's Citizenship Grants program for this project. The views expressed in this report do not necessarily reflect the views of the Secretary of State.

We wish to acknowledge the assistance of the members of the project committee in reviewing and commenting on earlier drafts of this paper. They are Don Lee, Robert Katz, Reverend Eilert Frerichs, Earl Miller, Morrie Latchman, Jil Armstrong, Enver Garda, Dr. Wilson Head, Bobby Siu, Ben Kayfetz, and Dr. Frances Henry.

Thank you also to Madeline Allicock, Reinhold Johannes, Joan Wrigley, Susan Kee, and other Social Planning Council staff without whose help this report would not have been made possible.

Cover photo: Frank Rooney

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II

WORKING PAPERS FOR FULL EMPLOYMENT

Social Policy Perspectives on Employment

Series Titles

Working Paper #1	*Unemployment in Toronto: Hidden and Real* February 1980 - Leon Muszynski
Working Paper #2	*Layoffs and Unemployment: Job Retention as a Policy Issue* July 1980 - Leon Muszynski, Donna Krawetz
Working Paper #3	*The Social Impacts of Job Loss: An Annotated Bibliography* July 1980 - Donna Krawetz
Working Paper #4	*Poverty and the Labour Market* *September 1981* Leon Muszynski, Donna Krawetz
Working Paper #5	*Racial and Ethnic Discrimination in Employment* February 1982 - Leon Muszynski

III

WORKING PAPERS FOR FULL EMPLOYMENT
Social Policy Perspectives on Employment

Several years ago the Social Planning Council of Metropolitan Toronto undertook a general formulation of principles to guide social policy into the future. Called "Aiming at the Eighties", it affirmed in principle the need for "full employment" as a social requirement and as an urgent priority. Full employment was defined as a sufficient number of jobs for all persons desiring the opportunity to work. Access to satisfying and remunerative employment was viewed as an essential condition for social well-being. Unemployment and problems in employment were believed linked to the persistence of social problems and the maintenance of income inequality.

The Social Planning Council of Metropolitan Toronto believes that income and employment security continue to be a social policy and planning priority. Secure employment opportunities are the only potentially effective means of guaranteeing income equality and security.

"Working Papers for Full Employment" is a series of occasional papers seeking to illuminate problems in employment and unemployment in Metropolitan Toronto. As working papers they are designed to introduce and analyse important data, review research, raise issues and present policy options in an effort to stimulate open discussion on how to achieve a state of full employment. Their purpose is to contribute to informed discussion and decision-making on a variety of issues in employment research, analysis, and planning.

IV

Introduction

Despite the growth of human rights legislation in Canada over the past twenty years, there remains considerable inequalities of income and job opportunity. We pride ourselves in our cultural pluralism. Our official policy of multi-culturalism seeks to encourage and support cultural and ethnic diversity. But the major failure of multi-culturalism as a policy is that it does not specifically seek to achieve social and economic equality. The character of Canadian society is changing rapidly because of changes in patterns of immigration. Changes are also occurring in the economy so that Canada is less the country of opportunity that it once may have been. Increasingly, allegations of racism and incidents of violence involving racial tensions are marring our perception of ourselves as a society committed to "fair play for all". [1]

Events in Britain last summer may seem remote and foreign, even irrelevant to Canada. But the patterns of development of British society with respect to immigration, the multi-racial/multi-ethnic work force, and discrimination, is only several years ahead of Canada's. As unemployment rises in Canada it would be naive to believe that social conflicts could not also occur here.

It is illegal to discriminate against anyone because of their race or ethnicity. But the enforcement of human rights legislation has not been entirely effective. The process of conciliation or the more formal and legal board of inquiry hearings is often long and cumbersome. The onus is on the individual affected to present his/her case to the commission. This at

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1. Trudeau, Rt. Hon. Pierre Elliot - Canada, Parliament, House of Commons Debates, Third Session, Twenty-eighth Parliament, volume 8, October 8, 1971. Ottawa, Queen's Printer.

least requires that the person have a direct knowledge that discrimination might have occurred. Because many incidents of discrimination are hidden, or indirect, this knowledge is not often present. Even when an individual perceives discrimination to have occurred, they may lack confidence that taking their case to a human rights commission will result in any significant change for themselves. Among minorities in Ontario there is a crisis of confidence with "their" human rights commission.

Discrimination in employment is a very serious problem for individuals and groups suffering that discrimination. Forced exclusion from a job is not only harmful to the individual for psychological reasons. Without a job a person has no independent means of livelihood.

Discrimination and prejudice or bigotry, while related, are not the same. Prejudice and bigotry are feelings or attitudes. Discrimination is an action taken on the part of an individual or group against another individual or group. An end to prejudice and bigotry cannot be legislated. An end to discrimination can be. Legislation sets out standards of practice for people involved in business activity. Just as we accept the right of government to regulate standards of safety for air transport, or meat inspection, so too we accept the role of government in outlining standards of operation that assure fair treatment of all people.

This paper is about racial and ethnic discrimination in employment. It seeks to document the existence of the new multiracial reality of Metropolitan Toronto. It examines the process of employment, recruitment, selection and promotion, for their discriminatory potential. It also explores policy options which seem appropriate to deal with the problem.

It should be noted that when we speak of racial or ethnic groups we have no technical definition that guides the use of these terms. We use them as they are used in common language. Racial groups refer to broad categories of humankind that are distinguished by the colour of their skin, (eg. blacks, Asians, caucasians). Ethnic groups refer to characteristics of people who may or may not constitute separate races. They can be identified by their nationality, (eg. Poles), their religion, (eg. Jews), cultural identity, (eg. French) or any other common characteristic that binds a "people" together.

SECTION A. THE EVIDENCE

1. Immigration and the Multi-Racial Reality

Historically Canada has relied on immigration as an important source of population and labour force growth. Prior to 1945, immigration was viewed as essential to populate the vast expanse of Canada. After 1945 immigration was seen to have a much more specialized function: to meet the specific skill and labour force requirements of the Canadian economy. More recently immigration policy has become more restrictive in an effort to train and use Canadian labour before having to import it from abroad. Nevertheless, Canada will continue to need new immigration in order to meet the labour requirements of the Canadian economy. The report of the Task Force on Labour Market Development prepared for the Minister of Employment and Immigration, concluded that although there will be no general labour shortage in the 1980's, there will be a foreign labour requirement that may have to be higher than it has been recently. [2] Immigrants are not a drain on the national economy. Not only is their labour needed for the benefit of all Canadians, but immigrants are also consumers of goods and services, and, as such, they contribute to the increased production and the creation of jobs.

Despite the necessity of immigrant labour to the Canadian economy, there remains a belief that immigration is in some way detrimental to Canadian society. The majority of the Canadian population have reported that they do not believe that Canada needs new immigrants. [3] The remaining groups give qualified support to immigration as long as it does not take jobs away from Canadians.

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2. Employment and Immigration Canada, Labour Market Development in the 1980's, July 1981, p. 183.

3. Richmond, Anthony - "Black and Asian Immigrants in Britain and Canada: Some comparisons". New Community, Vol. IV, No. 4, Winter/Spring 1975-76.

The main source of immigration to Canada has always been Britain, and in so far as they have been white they have been quickly assimilated into the Anglo-Saxon majority. To a lesser extent, but still in large numbers, new Canadian immigrants came from other European countries -- Poland, the Ukraine, Germany Greece and Italy. These immigrants, although culturally diverse were racially similar to the white majority. Slowly, but significantly, the sources of immigration to Canada have been shifting away from Europe to Third World countries. (Table 1). This shift is occurring despite an immigration policy that favours immigration from Britain, the United States and Europe through the location of numerous offices in these countries, compared to elsewhere in the world. Canada is no longer the attractive option for highly skilled Europeans. Many European economies have advanced to a level beyond that of Canada. Canada is less a place of unlimited job opportunity and job security. For most Third World citizens, however, Canada remains an attractive alternative to the high unemployment and depressed economic state of their homeland. In addition volatile political conditions in many parts of the world have created large refugee populations such as Ugandan Asians and Vietnamese. Canada has assumed some responsibility for the absorption of these displaced people into its population.

As a result of this shift in the patterns of immigration from Europe to Third World countries, there has been a rapid rise in the number of "visible minorities" in Canada, and in Metropolitan Toronto in particular. Prior to 1962, only 2 percent of all immigrants were East Indian, Chinese, Japanese or Black. [4] This increased to 7.5 percent for the period between 1962 and 1966. Estimates beyond this point are not precise, but one informed estimate for the years 1967-1974 places the number of black and

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4. Ibid., p. 503.

TABLE 1

Ten Leading Source Countries of Immigration to Canada
Selected Years

RANK	1951	1960	1968	1973	1977	1979
1	Britain	Italy	Britain	Britain	Britain	Vietnam
2	Germany	Britian	United States	United States	United States	Britain
3	Italy	United States	Italy	Hong Kong	Hong Kong	United States
4	Netherlands	Germany	Germany	Portugal	Jamaica	Hong Kong
5	Poland	Netherlands	Hong Kong	Jamaica	Phillipines	India
6	France	Portugal	France	India	India	Laos
7	United States	Greece	Austria	Philippines	Lebanon	Philippines
8	Belgium	France	Greece	Greece	Portugal	Portugal
9	Yugoslavia	Poland	Portugal	Italy	Italy	Jamaica
10	Denmark	Austria	Yugoslavia	Trinidad	Guyana	Guyana

Updated from Warren Kalbach and Wayne McVey,
The Demographic Basis of Canadian Society,
Second Edition. Toronto: McGraw Hill
Ryerson 1979, p. 49.

Asian immigrants at 361,000 or one quarter of all new immigrants. [5] As late as 1968, of the ten leading source countries of immigration to Canada, only one source, Hong Kong was racially different from the Canadian majority.

By 1979, there were only three countries that were predominantly white in the ten leading source countries of immigration to Canada. The remaining seven consisted of Vietnam, Hong Kong, India, Laos, Philippines, Jamaica, and Guyana. [6] (Table 1). Fifty-seven percent of all immigrants to Canada in 1979 came from Asia, Africa, and the Caribbean or Guyana. (Table 2). Urban centres such as Toronto are today the most common destination for new immigrants. Since 1974, 39 percent of all immigrants to Canada have Toronto as their intended destination. [7] And although Britain is still a leading source country of immigration, increasingly immigrants from Britain are blacks or Asians who have come originally from Asia, Africa or the Caribbean.

A study of ethnic identity in Metropolitan Toronto in 1970 found that already four percent of all households were Asians, blacks, and Native people. [8] Since 1970 this has changed dramatically. Next to the United Kingdom, the Caribbean and Guyana combined was the second largest single source of new immigrants to Toronto in the last quarter of 1980. Sixty-nine percent of all immigrants to Canada in 1979 from the Caribbean and Guyana had Ontario as their intended destination. It is likely that the vast

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5. Ibid.

6. The reason that Vietnam was included and indeed was at the top of this list is because of the refugee program of that year. Although this was a temporary program the trend remains significant.

7. Equal Opportunity Employment Utilization Study, Statistical Appendix, City of Toronto, 1981, p. 39.

8. Richmond, Anthony, "Language, Ethnicity, and the Problem of Identity in a Canadian Metropolis", Ethnicity in the Americas (ed. Frances Henry) Mouton, The Hague, 1976, pp. 41-71.

TABLE 2

Immigration to Canada by Place of Residence
and
Percent with Destination Ontario - 1979

	Number	Percent	% with Destination Ontario
Asia	50,540	45.1	40.7
Africa	3,958	3.5	48.3
Caribbean and Guyana	8,839	7.9	68.5
Sub Total	63,337	56.5	45.1
South and Central America (excluding Guyana) (including Mexico)	4,119	3.7	44.9
Europe	32,896	29.3	51.9
United States	9,617	8.5	41.5
Australasia & Oceania	2,121	1.8	24.9
Total	112,090	100.0	46.3

Source: Immigration Statistics, Employment and Immigration, Ottawa, 1980.

majority of these immigrants were destined for Metropolitan Toronto. The most recent estimate of the size of Metropolitan Toronto's visible minority population was made in a study for the City of Toronto.[9] It includes from 200,000 to 230,000 blacks, 100,000 South Asians, 100,000 to 150,000 Chinese, and 25,000 native people. The percentage of visible minorities relative to the rest of the population is estimated to be 12 percent at the low end and 20 percent at the high end.[10]

Increasing allegations of racism, racially-based violence, and discrimination have accompanied the increased population of visible minorities in the social fabric of Metropolitan Toronto. To the extent that allegations are true, they represent a serious challenge for all those concerned with the future of Toronto as a city where diverse racial and cultural groups can live together and realize their aspirations with a minimum of conflict.

2. Discrimination against Racial and Ethnic Minorities

Assessing discrimination today is by no means as simple as it once was. There was a time in Canadian history when racial discrimination could be practiced openly because it was seen as a justified and proper defence of Canadian interests. The immigration Act, before 1962, empowered the federal government to select immigrants on the basis of their racial or national origin. Asians, many of whom had Commonwealth status, were systematically denied entrance to Canada through the application of quotas and other "ingenious means".[11] Japanese Canadians were incarcerated in concentration camps during the Second World War (though German Canadians were not). The construction of the Western railways

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9. Equal Opportunity Employment Utilization Study, City of Toronto, 1981, p.3 .

10. Ibid .

11. Raj, Samuel - "Some Aspects of East Indian Struggle in Canada, 1905-1947" in Visible Minorities and Multi-Culturalism: Asians in Canada, ed. Ujimoti, K.V., Herabayashi, G., Butterworths, Toronto 1980, pp. 63-80.

around the turn of the century was accomplished by importing poorly paid Chinese labourers to do the work shunned by other Canadians. Native Canadians have been subjugated in the interest of the colonizing majority. Moreover, it is not only racially different groups who experienced "official" discrimination in Canada's history. East Europeans, Irish, Italians and Greeks, have also been excluded from the mainstream at one time or another.

Today these and other instances of discrimination are clearly recognized as such and are condemned as inconsistent with prevailing standards of human rights. Human rights codes assert the equality of all groups before the law and the federal policy of multi-culturalism affirms a commitment to "fair play for all".

But an official commitment to equal rights, and the realization of this principle in the behaviour of society's institutions are two separate matters. The very fact discrimination is officially condemned makes its identification that much more difficult. What criteria should be used?

3. The Concept of Discrimination

The concept of discrimination has evolved through several stages mostly through the development of case law in the United States. [12] The first notions of discrimination were limited to the belief that any act to cause harm to an individual because he/she was a member of a group had to be based on ill will or intent to harm solely because of membership in that group. In legal terms this required not only the act of harm to the individual be demonstrated, but that evil motive also be demonstrated for discrimina-

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12. Tarnapolsky, W. "Discrimination and Affirmative Action" in Race and Sex Inequality in the Workplace, Labour Canada, 1980.

tion to have occurred.

During the 1950's and the 1960's the concept of discrimination was expanded to include the idea that unequal and less favourable treatment of minority groups constituted discrimination. This meant, for example, that discrimination would be deemed to occur if the minority group was expected to meet different criteria for hiring than the majority group even if there was no discernable intent to discriminate.

A third concept of discrimination has evolved since the 1960's in the United States and only recently in Canada. It finds its roots in a landmark decision of the U.S. Supreme Court in Griggs vs. the Duke Power Company. The court found that discrimination occurred even though there was no evil motive or prejudice, and that blacks were treated equally with respect to criteria for hiring and advancement. Since it was found that the company required all employees to meet its educational and test requirements, the courts were concerned with the impact of these criteria on blacks. It found that requiring high school leaving and a certain level of performance on an employment test had an adverse impact on minorities and it expressed concern. But although this condition was necessary for the court to find discrimination had occurred, it was not sufficient. What was required in addition was proof that these requirements were unrelated to the ability to perfrom the job. Such evidence was also found after investigation and the notion of "systemic discrimination" was given legal precedence.

The concept of systemic discrimination is relatively new to Canada, but its application has been relevant in numerous cases brought to boards of inquiry of human rights commissions across Canada. It has been recognized that discrimination can take several forms. It can be intentional and of the evil motive variety; it can be the result of unequal treatment; and it

can also be the result of the application of seemingly neutral practices that have an adverse impact upon minorities and at the same time are unrelated to job necessity. The latter requires only that the results of any procedure to hire or promote minorities be harmful to minorities independent of intent or of the equal treatment criteria.

In practice the application of these definitions and the identification of discrimination is a lengthy process that requires a large commitment of resources. It requires research on the impact of hiring and promotion criteria on minority groups and it requires studies to validate or invalidate these criteria as adequate measures of ability to do a job. This knowledge and the capability to undertake such analysis is at present limited in the Canadian context. Much more extensive research into the discriminatory aspects of hiring procedures, as well as more test cases before formal borads of inquiry are required in order to build up a knowledge base in case law.

At this stage we are adopting the following definition of discrimination in employment: the extent to which in the procedures of and the decisions made affecting recruitment, hiring, salaries, promotions, training or working conditions, members of racial or ethnic minorities are adversely affected because of their racial or minority group status.

4. Disadvantage and Discrimination

Minorities may be at a disadvantage in the competition for jobs for a variety of reasons, not all of which are the result of discrimination. The main reason for non-discriminatory disadvantage in the job market is the lack of appropriate job qualifications, including education, training and experience. If a minority group is at a disadvantage because its members lack appropriate job qualifications, then ordinarily we would not conclude that discrimination has occurred. Few would argue that there is an injustice if immigrants

with less than the equivalent of a Canadian high school education were unable to get licensed as doctors in Canada. Thus in assessing discrimination, an attempt must be made to "separate out" job qualifications from other factors affecting job success.

Upon reflection, this separating out will entail very significant ambiguities. What is an appropriate job qualification? Consider some examples. When employers impose the requirement of "Canadian experience", some have seen this as justified, but today this has been identified as an effort to bar recent immigrants from employment that they could effectively do without work experience in Canada.

The same ambiguity exists with respect to other job qualifications. Years of formal education may be an important job qualification in some instances, but it is increasingly recognized that education is often over-used as a job qualification. This can work to the disadvantage of immigrant groups or even native Canadians. The requirement of a Grade 13 education, for example, may effectively eliminate some immigrant groups from consideration for jobs they may actually be quite able to perform. This form of exclusion can be unwitting in some cases, or it can be a conscious, though unacknowledged, form of racial or ethnic discrimination.

5. Evidence of Discrimination

How do we know that discrimination against minorities exists and how extensive is it? Because of the serious ambiguities inherent to the concept of discrimination, it is important to consider evidence of the existence and extent of discrimination from several sources. This will help deal with the problem of separating out the racial factor in employment from other factors, though it may not lead to definite conclusions upon which a

consensus can easily emerge. We will consider three sources: overall statistics on job attainment among ethnic and racial minorities, individual cases of discrimination reported to and handled by human rights commissions, and attitudes and perceptions related to the potential for or experience of discrimination.

a) Social Data

Statistical surveys and census data on the experience of minorities in the job market are an important source of information describing the social and economic status of minorities. Up-to-date statistical surveys can accurately measure whether a minority group is at a disadvantage in terms of job status, security or income. Analysis can help isolate the racial or ethnic factor from others such as education or work experience. They cannot, however, consider job qualifications. Actually they should be applied in each individual instance, and this is a weakness. However, they do help to provide a much needed picture of whether immigrants that improve their job qualifications and job experience actually reduce their job disadvantages.

b) Cases before the Human Rights Commissions

Federal and provincial law bars job discrimination on the basis of race and ethnicity. Complaints within Ontario against employers under Ontario provincial jurisdiction are brought to the Ontario Human Rights Commission. Complaints against employers under federal jurisdiction are brought to the Canadian Human Rights Commission. Most cases are settled in conciliation among the complainant, the accused and the Commission. Where there is no agreement at this level, a formal public board of inquiry is established and this board has the power to determine if the complaint is justified, and then to determine the settlement. In hearings, adjudicators attempt to separate out the racial factor to find

out whether it has been involved in a particular job decision in dispute. This procedure involves a very close look at the job in question, the applicant, the employer, and all relevant circumstances. It is sensitive to nuances affecting individual and idiosyncratic aspects of the situation. From this point of view it is an ideal way of separating out the racial factor from others affecting particular instances. However, there are drawbacks. Many instances of discrimination go unreported either because the victim lacks the resolve to lodge a complaint, or because they are unaware that they have been discriminated against. Also, most of the information about complaints before the Human Rights Commission is not public information, and, therefore, cannot be analyzed.

c) Attitudes and Perceptions

Given the limitations of the above two sources of information, it is important to consider a third -- the attitudes and perceptions of both majority and minority groups relevant to discrimination. In some respects this is the "softest" source of information but it can be very revealing in several ways. First, if the majority group holds very negative attitudes towards visible minorities it seems highly improbable that discrimination can be avoided. At least it provides evidence of social support for discrimination. Second, if the perceptions of the minority are that they experience discrimination this is a significant problem in itself. It may also reflect the occurrence of actual discrimination. Third, if the majority group believes that discrimination exists, this may be an important fact confirming the existence of discrimination.

6. Social Data on Discrimination

Most European immigrant groups in Canada initially occupying low "entrance statuses" have achieved significant

upward mobility at least in the second generation. This is a finding of virtually everyone of several statistical studies which have examined the issue. Opportunities for European immigrants and their descendants may not in every case be as great as for the dominant Canadian groups, and they may or may not be as great as for European immigrants and their descendants in the United States - these and related issues identified by Porter's Vertical Mosaic are still debated.[13] But the general pattern of upward mobility in these groups is quite clear in available census and survey data.

The experiences of visible minorities who are more recently arriving in Toronto and other Canadian cities may or may not be the same, and this is the question of concern here. In the United States there is a very clear difference between mobility rates for blacks as opposed to European immigrants. The issue is whether anything comparable occurs in Canada, and whether significant discrimination against visible minorities is in evidence.

Sources of statistical data on the economic status of visible minorities in Toronto are still inadequate in part because the presence of such groups in large numbers is a very recent phenomenon. But the available information does suggest that very low incomes exist in some of these groups, and that their members continue to be the victims of significant discrimination. Available data from five sources seem most relevant:

1) the 1971 census
2) a 1969-1971 survey of recent Canadian immigrants conducted by Manpower and Immigration
3) a 1969-1970 survey of male household heads in Toronto

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13. Porter, John - The Vertical Mosaic. Toronto: University of Toronto Press, 1965.

4) the 1976 census, and

5) the 1978-1979 Ethnic Pluralism Study.

A drawback of the first three sources is the fact that they do not cover the period since 1971 when most visible minorities, other than Chinese, settled in Toronto. They also often combine ethnic or racial groups making analysis difficult, and/or do not try to separate out factors affecting economic status. The 1978-1979 survey of Toronto includes Chinese and West Indian blacks, but provides no data on South Asians or Hispanics.

a) The 1971 Census

Census data for 1971 does not identify individual visible minorities or show the experiences of recent immigrants in those groups. Some special analyses carried out by Richmond and his collaborators provide the most details and suggest probable patterns.

Richmond and Verma found in an analysis of males in the labour force across Canada that most European groups, and also Asians, experienced considerable mobility. (Table 3)

> "high median earnings combined with under-representation among those with low incomes and over-representation among the most affluent householders by the Canadian born of foreign parentages (including those of Jewish, Asian, and Southern European origin) suggests that Canadian society has provided significant opportunities for upward mobility for children of immigrants, irrespective of ethnic origin." 14

But some groups, including third generation persons "of black and mixed racial origins" have been much less successful.

> "Particularly notable is the economic deprivation of the French charter group and the third-plus generation of "other" origins, which consists mainly of native peoples and those of black and mixed racial origins." 15

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14. Richmond, Anthony, and Verma, Ravi P. - "Income Inequality in Canada: Ethnic and Generational Aspects." Canadian Studies in Population (1978) p. 34.

15. Ibid.

TABLE 3

Median Earnings, 1970, Males in Current Experienced Labour Force, 1971, by Birthplace of Parents and Ethnic Group of the Canadian Born and Period of Immigration and Ethnic Group of the Foreign Born: Age Adjusted - Canada

Birthplace of Parents/ Period of Immigration	Standardized Median Earnings with Age Composition of Cadn. Population								
	British	French	Other Northern & Western Europeans	Jewish	Southern European	Central & Eastern European	Asian	All Other	Total Ethnic Groups
All Canadian Born	7,045	6,067	6,884	8,818	7,107	6,954	7,023	5,065	6,708
-Cadn. born with 2 Canadian born parents	6,763	6,036	6,766	7,515	6,526	6,697	6,545	4,737	6,421
-Cadn. born with 1 Canadian born parent	7,506	6,645	7,157	9,785	7,227	7,044	6,786	6,882	7,358
-Cadn. born with 2 Foreign born parents	7,667	6,569	6,904	9,143	7,246	7,006	7,236	6,732	7,396
All Foreign Born	7,767	6,652	7,252	7,237	5,840	6,727	5,406	6,046	6,899
-Immigrated before 1946	7,440	6,740	7,074	8,698	6,544	7,035	5,446	6,789	7,211
-Immigrated 1946-60	7,978	6,949	7,315	7,401	6,249	6,965	5,566	7,226	7,114
-Immigrated 1961-65	7,767	7,150	7,308	6,871	5,522	6,325	6,660	6,897	6,449
-Immigrated 1966-71	7,306	6,368	7,031	5,726	6,948	5,525	4,923	5,333	5,764
Total	7,152	6,081	7,021	8,084	6,041	6,865	5,835	5,304	6,745

Source: Statistics Canada, Sepcial Tabulation from Richmond and Verma, p.29.

These data show the effects of ethnic origin after education and age differences have been controlled. Whether upward mobility experienced by Asians will be experienced by other visible minority immigrants cannot be assessed in these data. Richmond and Verma hypothesize that the visible minorities and certain other groups do experience significant discrimination, but that the resulting mobility patterns depend on the psychological response of the group. Specifically they suggest that a poorly educated group will become apathetic and therefore immobile. A better educated group will take up the challenge and move up quickly.

> "when a non-preferred ethnic group experiences prejudice or perceives discrimination against its members, the reaction will depend upon level of education. Those with low education will respond apathetically and exhibit poor achievement. In contrast, those members of minority groups who have average or above-average levels of education will react against prejudice. They will be spurred to greater efforts, tending to over-achieve compared to others." 16

As they say, they do not have the data to confirm such a hypothesis.

A report by Richmond and Kalbach analyzes 1971 census data for Toronto and other specific cities. [17] For Toronto, they confirmed the general pattern for the Canadian-born in most ethnic groups to earn higher incomes than the immigrants in the same group. In 1970 Asian immigrants aged 35-44 earned an average of $7,733 whereas the Canadian born of Asian origin in the same age group earned an average of $10,447, only about $500 less than the corresponding British-origin group (Table 4). West Indian blacks are not separately tabulated. However, the tables show that an "all other" group (on which the authors do not comment) did not

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16. Ibid.

17. Richmond, Anthony, and Kalbach, Warren, assisted by Ravi P. Verma, Factors in the Adjustment of Immigrants and their Descendants. Ottawa: Statistics Canada, 1980.

TABLE 4

Average Earnings in 1970, of Family Heads Aged 35-44 by Birthplace and Ethnic Group With Rank Order by Ethnic Group, Canada, Toronto, 1971

Ethnic Group	Canada				Toronto			
	Canada-born		Born Outside Canada		Canada-born		Born Outside Canada	
	$	Rank	$	Rank	$	Rank	$	Rank
Jewish	17,099	1	13,101	1	19,098	1	13,148	1
Asian	10,129	2	8,305	13	10,447	12	7,733	14
Italian	10,075	3	7,293	16	11,131	7	7,549	16
Other Eastern European	9,696	4	8,170	15	11,283	5	8,441	13
Other Southern European	9,451	5	6,711	17	9,791	15	6,722	17
British	9,390	6	10,625	2	11,176	6	10,615	4
Other Central European	9,333	7	9,401	4	10,990	8	9,697	9
Scandinavian	9,234	8	9,913	3	10,926	9	11,242	2
Polish	9,178	9	8,615	11	10,715	11	9,062	10
Ukranian	9,071	10	8,184	14	10,793	10	8,566	12
German	8,977	11	9,333	5	11,730	4	10,110	7
Hungarian	8,960	12	8,384	12	12,196	2	8,726	11
Netherlands	8,844	13	9,253	6	10,331	13	10,407	6
All other	8,763	14	8,632	10	9,466	16	7,607	15
Russian	8,659	15	9,136	8	11,865	3	10,466	5
Belgian & Other Northern and Western European	8,427	16	8,792	9	9,811	14	10,025	8
French	8,154	17	9,205	7	9,176	17	11,229	3
Native Indian & Inuit	5,070	18	6,539	18	7,350	18	5,417	18
Total	8,993		8,955		11,334		8,958	

Source: 1971 Census of Canada from Richmond and Kalbach, ibid., p.384.

experience the same income mobility. In a special analysis of low income groups across Canada it is reported that:

> "Those most likely to have low incomes were the third-plus generation of other ethnic origins of whom 47.7% were in the low-income group; it should be noted that a large proportion of this category were Native Peoples and Canadians of Negro and West Indian origin." 18

> "In summary, the incidence of poverty was probably highest among very recent immigrants, pre-war immigrants and third-plus generation Canadians who belong to visible racial minorities such as the Native Indian, Black and Asian groups. Second-generation Canadians, together with post-war immigrants of British origin as well as all those of Jewish origin were among those least likely to fall below the low-income line." 19

Once again notice that the evidence on visible minorities is not definite, especially in the case of blacks, and the recent black immigrants are not separately analyzed. Furthermore, this analysis does not separate out education or other job qualifications as explanatory variables.

A study of 1971 census data by Marr showed that the unemployment rates for Third World immigrants to Ontario in 1969-71 were double the average for other immigrants, and males from Third World countries had lower incomes than other male immigrants in many specific occupations. [20]

b) The 1969-71 Manpower and Immigration Survey

A survey of immigrants was conducted by the Department of Manpower and Immigration in 1969-71. Respondents were

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18. Ibid., p. 396

19. Ibid., p. 399

20. Marr, William L, "Labour Market and Other Implications of Immigration Policy for Ontario." Toronto: Ontario Economic Council, November 1976. Quoted in Economic Council of Canada, For a Common Future: A study of Canada's Relations with the Developing Countries. Ottawa: Supply and Services Canada, 1978, p. 123.

followed-up over a three year period. [21] The survey was not restricted to Toronto, and the results on incomes were not analyzed in terms of education or job qualifications. The data show that compared to other immigrants, Third World immigrants experience higher rates of unemployment in their first year in Canada, are more frequently unable to find occupations in their chosen fields of work, and earn less money. The income gap remains significant at least over the first three years in Canada. After one year, Third World immigrants earned an average of $4,300, about $1,700 less than other immigrants. In reviewing these and other findings, the Economic Council of Canada concluded that:

> "In general, most immigrants start on the lowest rungs and work their way up the social ladder of the host society so that, over a generation or two, they need not be identified by their initially low social status. Although long-run longitudinal data are not available on this point, there remains the presumption that upward mobility may be especially difficult for members of a 'visible' ethnic minority." 22

The Council recommended that more and better data be collected to monitor the progress of third world immigrants.

c) The 1969-70 Survey of Male Household Heads In Toronto

Goldlust and Richmond analyzed a survey of male household heads in various ethnic groups (N = 2,760). [23] The study was conducted at York University. At the time, the total number of black and Asian male household heads was less than 3 percent of all male household heads in Toronto. This made it difficult to obtain a large

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21. Canada, Manpower and Immigration, Three Years in Canada. Ottawa: Information Canada, 1974. Quoted in Economic Council of Canada, Ibid., pp. 123-4.

22. Ibid., 126.

23. Goldlust, John, and Richmond, Anthony, A Multivariate Analysis of the Economic Adaptation of Immigrants in Toronto, Toronto: Institute of Behavioural Research, York University, 1973.

representative sample. In the York sample, the total number of black and Asian immigrants combined was only 88 or 3 percent of the sample. Thus in the analysis the two groups were combined and it was impossible to reach conclusions about each separately. The overall incomes of Asian and black immigrants was $7,300, which was less that the native-born of native-born parents ($9,700), but more than some other immigrant groups (Italian: $7,100; Portuguese and Greek: $5,900) (Table 5). Probably the incomes of Asians were considerably higher than those of blacks.

Goldlust and Richmond attempted to separate ethnicity as a determinant of incomes from various other factors by means of controls in a regression analysis. They controlled for social origins, years of education, present occupational status, age, years of residence in Toronto and years of post-secondary education. The analysis showed that given equivalence among groups on all these characteristics, immigrant men of English and Jewish origin earned about $5-800 more than those of West European or Italian origin, $21-2300 more than those of Slavic, Greek, Portuguese or other origins, and $3,800 more than Asians and blacks (see Table 5). The authors interpreted these facts as evidence of discrimination.

> "The Asian/Black respondents are under-earning by considerably more than any of the other groups. The possibility of discrimination in employment as a principle residual variable accounting for this has already been foreshadowed." 24

d) The 1976 Census

A special tabulation of unemployment rates by mother tongue, age and sex for Metropolitan Toronto in 1976 by the Social Planning Council of Metropolitan Toronto reveal some differences between groups (Table 6). Unemployment rates can also act as an indicator of relative difficulty in the labour market, if not of discrimination. Again,

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24. Ibid.

TABLE 5

Predicted and Actual Income for Eight Foreign-Born Ethno-Linguistic Groups Using Regression Equation Based on Items Significantly Determining Income of Canadian-Born Respondents

	Actual Income $	Predicted Income $	Difference $
English Mother Tongue	10,500	9,600	+ 900
Slavic Mother Tongue	7,100	8,300	-1,200
Jewish	10,200	9,200	+1,000
Italian Mother Tongue	7,100	7,000	+ 100
Western European Mother Tongue	10,100	9,700	+ 400
Greek or Portuguese Mother Tongue	5,900	7,300	-1,400
Other Mother Tongue	8,200	9,600	-1,400
Asian/Black	7,300	10,200	-2,900
All Foreign Born	8,800	8,800	-

Source: Goldlust and Richmond

TABLE 6

Unemployment Rates by Mother Tongue, Age and Sex,
Metropolitan Toronto, 1976

	Age 15 - 24			Age 55 - 64			Age 15 or over		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
	%			%			%		
English	12	11	12	3	5	4	6	7	6
French	12	10	11	9	6	7	7	8	7
Chinese	16	13	15	8	11	9	8	7	8
Greek	10	10	10	5	8	6	5	7	6
Italian	10	7	8	6	6	6	4	6	5
Spanish	11	7	9	8	18	11	7	9	8
Portuguese	8	6	7	6	8	6	5	5	5
German	11	7	9	3	3	3	3	5	4
Ukranian	16	9	13	4	5	5	5	6	5
Other Eastern European	14	13	13	4	5	5	5	7	6
Indo-Pakistani	13	20	17	11	40	13	9	15	12
All Mother Tongue	12	10	11	4	5	4	6	7	6
All Except English and French	11	10	10	5	6	5	5	7	6

Source: Census Canada Special Tabulation 6001-00218A-2B - 1976,
Social Planning Council of Metropolitan Toronto

because racial data have not been collected we are hampered in a more complete understanding of the problems of racially different groups in finding and seeking employment. The largest difference is for those who claimed to have an Indo-Pakistani mother-tongue. Their rate of uenmployment was 12 percent or double the average with the overall female rate at 15 percent. Both the Spanish and the Chinese had rates of unemployment above the average. It is interesting to note that there are differences based on age as well. While the Spanish youth unemployment rate drops below the average for all youth, for Ukrainians and all other Eastern European youth the unemployment rate exceeds the average. For those over 55 years of age only the English and German have rates of unemployment below the average for that age group. The rates of Chinese, Spanish and Indo-Pakistani mother-tongue groups in the over 55 age group is notably high.

e) The 1978-79 Ethnic Pluralism Study

A more recent survey by Reitz et. al. used special sampling techniques to produce relatively large representative samples of both males and females of various ethnic origins in the full-time labour force of Metropolitan Toronto.[25] It included Chinese and West Indian blacks. The survey measured individual incomes from employment, and it enables analysis to separate ethnic differences due to education and work experience from ethnic differences due to other factors such as discrimination.

The data show that among men, Chinese incomes are about as high as the incomes of native-born Canadians of British origin having native-born parents ("majority Canadians") and about as high as the incomes of most other ethnic groups (Table 7). However, both West Indian and Portuguese incomes are lower by roughly $3,000. This

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25. Reitz, J., Calzavara, L., Dasko, D. - Ethnic Inequality and Segregation in Jobs, Centre for Urban and Community Studies, University of Toronto, May 1981.

TABLE 7

Average Income by Ethnic Origin and Sex,
Full-Time Labour Force,
Metropolitan Toronto, 1978/79

Gender	Ethic Origin		Mean* Income	N
Male	Majority Canadian		$16,000	(363,107)**
	English - Other		19,600	(226,143)
	Chinese		16,300	(2,667)
	German		17,200	(58,152)
	Italian		17,100	(249,161)
	Jewish		19,400	(68,161)
	Portuguese		13,500	(3,598)
	Ukranian		18,500	(44,171)
	West Indian		13,100	(5,079)
Female	Majority Canadian		14,400	(25,979)
	English - Other		12,300	(14,073)
	Chinese		11,700	(2,249)
	German		11,900	(8,695)
	Italian		8,400	(9,384)
	Jewish		12,300	(3,765)
	Portuguese		11,200	(2,847)
	Ukranian		13,300	(30,102)
	West Indian		8,000	(3,650)
Total Observations				(1850;1783)
Missing Data				(263;286)
Total Sample				(2113;2069)

Source: 1978/1979 Ethnic Pluralism Survey, Reitz et al., ibid.

* Individual gross annual income from employment

** Numbers in parentheses are: (weighted N; number of interviews)

suggests that the earlier findings by Goldlust and Richmond for Asians and blacks combined should be interpreted in light of possibly much higher incomes for East Asians, and much lower incomes for blacks.

Among women, several ethnic groups have lower incomes than "majority Canadian" women, but both Italian and West Indian women have incomes $6,000 less than those of the majority Canadians.

Separating differences due to education, work experience and knowledge of English from other differences was accomplished by means of regression analysis. The results (Table 8) showed that males in some immigrant groups, especially Italians, earn incomes very high in relation to education. While Chinese men "under-earn" by about $500 compared to majority Canadian. West Indian black men under-earn by $2,400. The inequalities experienced by women are even greater. Several visible minority groups under-earn by several thousand dollars. Chinese women under-earn by $3,500, and West Indian black women under-earn by $3,800.

Whether these differences will persist into the future without social intervention cannot be assessed in data such as these. The evidence strongly suggests that some visible minorities, including blacks and East Asians, are now concentrated in very low paying jobs in Toronto and although this is partly explained by their credentials for labour market competition, there are also indications that discrimination may be at work to reinforce their disadvantages. None of the data give support to the claim that West Indian blacks nor other low entrance status visible minorities will be able to achieve upward mobility as easily as earlier European immigrant groups. Nor do these data provide evidence that discrimination is a wide-spread phenomenon affecting the incomes of non-visible minority groups.

TABLE 8

Average Income by Ethnic Origin and Sex,
Adjusted for Effects of Job Qualifications,
Full-Time Labour Force (Multiple Classification Analysis)
Metropolitan Toronto 1978/79

Gender	Ethnic Origin	Adjusted Mean Income*	N
Male	Majority Canadian	500	(338,100)
	English - Other	2,700	(216,136)
	Chinese	00	(2,662)
	German	00	(52,142)
	Italian	3,500	(224,149)
	Jewish	800	(65,150)
	Portuguese	1,800	(3,070)
	Ukranian	500	(42,158)
	West Indian	-1,900	(5,075)
Female	Majority Canadian	- 800	(22,173)
	English - Other	-3,200	(14,071)
	Chinese	-4,300	(2,246)
	German	-4,600	(8,087)
	Italian	-2,500	(8,273)
	Jewish	-3,800	(3,460)
	Portuguese	1,200	(2,534)
	Ukranian	-2,800	(3,093)
	West Indian	-4,600	(2,341)
Total Observations			(1699;1620)
Missing Data			(414,449)
Total N			(2113;2069)

Source: 1978/79 Ethnic Pluralism Study, Reitz et.al. ibid.

* with adjustments the expectation would be that every group would have their income differences equalized at zero.

7. Human Rights Cases

The Ontario Human Rights Commission publishes an annual report on the activities of the commission. The report provides a description of commission procedures and activities, analysis of cases brought before the commission, and a description of some cases resolved by the commission either at the conciliation stage or at a more formal board of inquiry.

The latest report for the year 1980/81 indicates that complaints alleging discrimination in employment continue to represent the largest proportion of all complaints resolved. [26] Of the total of 893 cases brought to the commission in 1980/81, 747 or 84 percent were complaints of discrimination in employment. [27] Almost half of all cases related to employment, were on the grounds of race or ethnicity; 305 on the grounds of race, 58 on the grounds of nationality or ancestry. [28] Thus 40 percent of all the cases handled by the Ontario Human Rights Commission were on the grounds of racial or ethnic discrimination in employment. Complaints of racial discrimination have always been the largest complaint category dealt with by the commission. Since 1974-75, allegations of racial discrimination have constituted 36-50% of all of complaints resolved. [29]

A description of four cases from the past three annual reports of the Ontario Human Rights Commission serve to illustrate the way in which direct discrimination operates. These complaints were resolved at the level of conciliation in favour of the complainant. All cases were from Toronto:

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26. Ontario Human Rights Commission, Annual Report, 1980/81. p. 53. Table 4.

27. Ibid.

28. Ibid.

29. Ibid. p. 13.

o "A black Canadian woman alleged that she telephoned a Toronto restaurant to inquire if there were any openings for a qualified waitress. The man who answered said that a job was available, if she could report for work that evening. The woman did so, but when she met the owner, he said he was unsure about the vacancy and would have to consult with his wife. She was then told the restaurant was not short of waitresses at that time, but the owner would call her if an opening came up. When the woman called a few days later, she was told to wait for their call. She then filed a complaint of discrimination because of her race and colour.

The owner told the human rights officer during investigation that he had never employed black persons as waitresses, and when he saw that the complainant was black, he decided to withdraw the job offer. He said he believed that his customers would leave the restaurant if he hired black personnel.

In settlement, the respondent agreed to pay the woman $84 representing part-time earnings lost during her period of unemployment. He also offered her a job, which she declined because she had found alternative employment. He gave assurances that he would comply with the provisions of the code in future, and apologized to the complainant for the discriminatory treatment." 30

o "A black immigrant from Guyana was hired as a chef for a Toronto hospital in 1976 and, as far as he knew, his performance had been satisfactory. However, in 1978, a new chef, who was white, was hired and became the complainant's supervisor. Two weeks later the complainant was dismissed.

In investigation, the employer claimed that the dismissal took place because the complainant had refused to supervise other kitchen staff, in spite of the fact the position involved supervisory duties. However, the human rights officer found that the chef's salary was not in line with the salaries paid to the other chef-supervisors, all of whom were white.

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30. Ontario Human Rights Commission, Annual Report, 1978-79, p. 17

During the conciliation, the officer explained that all of the duties and responsibilities required in a position should be adequately defined and understood by job incumbents. The respondent offered to reinstate the complainant as chef-supervisor and to increase his salary, but the complainant did not wish to return to work there. The employer paid the complainant $2,513.47, representing earnings lost from the date of dismissal to the date of the offer of reinstatement." 31

- "The complainant, a Trinidadian-Canadian of East Indian origin living in Toronto, alleged that he was dismissed from his job as a maintenance mechanic because of his race, colour, ancestry and place of origin after a new white co-worker had given false reports of poor work performance to the supervisor.

  In investigation, the commission found that the complainant had been the victim of verbal harassment and pressure from the co-worker and another white employee. Several members of the supervisory staff claimed that the complainant's production levels had been low, but his co-workers believed that his performance had suffered because of the continuing harassment. The evidence showed that the company had not responded when tensions involving the complainant developed at the workplace.

  In settlement, the employer paid the complainant $704 in compensation for the wages he lost while out of work. The company requested that the staff of the commission meet with the employees in the complainant's work area to discuss the complaint and its resolution, and management instituted a grievance procedure for all employees." 32

- "Case E-6610

  A black Canadian male was referred by a Canada Employment Centre to a suburban Toronto branch of a national retail chain. During the interview, he was aksed to provide copies of his citizenship papers and a photograph. When he refused, the interview was terminated.

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31. Ibid. p. 22

32. Ontario Human Rights Commission, Annual Report, 1979-80, p.22.

> The applicant, believing that he had been discriminated against because of race, colour and ancestry, filed a complaint alleging a violation of sections 4(1)(b) and 4(4) of the Ontario Human Rights Code.
>
> The investigation found that company policy required job candidates to perform aptitude tests, produce photographs, references and proof of legal elegibility to work in Canada.
>
> In conciliation, the company agreed to revise its recruitment and hiring procedures and to require proof of eligibility to work in Canada and a photograph only after hiring. Store managers and recruiting staff were advised of the new policy. The complainant was re-interviewed and received an offer of the first available position of management trainee. He accepted the offer and soon began employment with the company." [33]

These cases of discrimination were relatively obvious and were, therefore, resolved quickly with the assistance of human rights conciliators. Other cases are not so easily resolved because they are not amenable to proof.

Cases that go before a formal board of inquiry are usually more complex. They involve incidents where the case for or against discrimination requires lengthy and reasoned consideration. Cases that come before boards of inquiry in Ontario and in Canada are relatively few in number. In Ontario in 1980/81, 57 board hearings were appointed but only 15 completed their hearings. [34] There were only 74 board of inquiry or court cases in all of Canada between 1975 and 1980. [35] In the opinion of Harrish Jain who has studied all of

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33. Ibid., p. 16.

34. Ibid., p. 54.

35. Harrish Jain, Decisions and Remedies in Employment Discrimination Cases in Canada, in Racial and Ethnic Minorities in the Workplace, Social Planning Council of Metropolitan Toronto, Forthcoming 1982.

these cases in detail "this ... may only be the tip of the iceberg".[36] Most human rights cases are settled in private and since most individuals may not be aware of the occurrence of indirect of sytemic discrimination, few cases are likely to be brought forward for formal investigation.

8. Perceptions of Discrimination

a) Attitudinal Surveys

Studies of the attitudes of various ethnic and racial groups have identified important variances in the personal perception or experience of discrimination. The York survey in 1970 found that between 17 and 26 percent of most immigrant groups perceived themselves to have been discriminated against. On the other hand, 41 percent of Jews, and 40 percent of Asians and blacks reported some form of discrimination in employment.

From the study of Ethnic Pluralism in Toronto, perceptions and experiences were collected on various ethnic groups in 1978.[38] Both the Chinese and the West Indian group had the highest proportion of respondents stating that they perceived discrimination in employment to be a very and somewhat serious problem. A full 72 percent of West Indians responded that they perceived it to be a serious problem for their group. Twenty-four percent of the Chinese, 22 percent of the Italian, 17 percent of the Jewish and 17 percent of the Portuguese respondents similarly perceived discrimination in employment to be a serious problem for their groups.

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36. Ibid.

37. Richmond, A. - Black and Asian immigrants in Britain and Canada: Some Comparisons - op. cit. p. 505.

38. Breton, R. - The Ethnic Community as a Resource in Relation to Group Problems: Perceptions and Attitudes, Centre for Urban and Community Studies, University of Toronto, Research Paper 122, May 1981.

When asked if they had experienced discrimination in trying to get a job themselves, 28 percent of West Indians and 29 percent of Chinese responded that they had. A smaller proportion of other groups reported experiencing job discrimination directly; the next lowest was the Jewish group 12 percent of whom reported that they had experienced job discrimination directly.

Nor is this simply the perception of the group experiencing discrimination in employment. In all cases except one, the majority of Canadians felt that discrimination in employment exists for ethnic groups in approximately the same proportion as the ethnic group itself. Almost 80 percent of majority Canadians in Toronto perceived employers to be discriminating against West Indians, 54 percent Chinese, 49 percent against Jews and 36 percent against Italians. While 55 percent of majority Canadians in Toronto believed that employers were discriminating against Portuguese, only 16 percent of the Portuguese thought so.

A study of racism in Toronto in 1978 by Dr. Frances Henry found that the majority of the white population sampled in Toronto held racist attitudes towards blacks and Asians.[39] Over 15 percent of these held "very racist" attitudes while 35.2 percent held "somewhat racist" attitudes.[40] For purposes of the study racism was defined as "a social phenomenon which refers to people's attitudes, beliefs, and behaviour predicated on non-scientific, and erroneous assumptions about the nature of human diversity".[41]

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39. Henry, Dr. Frances - The Dynamics of Racism in Toronto, York University, Mimeo, 1978.

40. Ibid.

41. Ibid.

b) The Origins of Racist Attitudes

The great diversity of backgrounds between and among "visible minority" groups in Canada has not managed to alter several common set of beliefs held by the white dominant groups in Canada. We can describe these only in subjective terms. Racist attitudes are usually accompanied by a range of negative stereotypes of racial minority groups. Racists often view blacks and Asians as lazy, dirty, unmotivated, and lacking in intelligence and discipline.[42] There is evidence that these attitudes emerge as a complex set of "impressions" about the character, history and social status of different racial and cultural groups. For example blacks in Canada are not a homogeneous group although they may be viewed so by the dominant white majority. They are as diverse in culture as they are in social origin. There are Canadian-born blacks whose ancestors have been in this country for over two hundred years. There are also a large number of recent black immigrants from the Caribbean, and there are black immigrants from the United States, and from Africa.

Discrimination toward blacks has its roots in the institution of black slavery. White European civilization colonized Africa and sold blacks into slavery in the new world. The slavery that existed both in the United States as well as in Canada produced a self-serving stereotype of the black person as dependent upon a master, childlike, irresponsible, lazy, and ignorant. These stereotypes have been carried into the present by white society and are the views overtly held by large numbers of people.

South Asians refers to a broad range of ethnic groups. They have been referred to as "Paki's" by racists, yet they not only come from Pakistan, but from India, Bangladesh and Sri Lanka, as well as

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42. Ibid.

a number of other countries such as Uganda, Kenya, Tanzania, South Africa, Indonesia, the West Indies, Britain and Central and South America. These national differences are reflected in differences in language, religion and tradition. South Asians have been the focus for some of the more overt forms of racism in recent years. Dominant white group attitudes toward South Asians have been formed as a result of misinformation about this diversity. South Asia has and continues to be portrayed in the West as poverty stricken and over-populated, the target of charity for Canadian contributions. The image of poverty in the West is one that often tends toward a blaming of the victim. This view of South Asia generally ignores the history of colonial domination of India and Pakistan and the difficulty of emerging from that history unscathed. The fact that many South Asians who come to Canada are generally well educated with some financial resources and skills creates a conflict with the stereotype, which ultimately results in fear, anger and racial prejudice.

In addition to blacks and South Asians, Asians, Middle Easterners, Jews, Native Indians, South Europeans, and Hispanics all suffer from stereo-typing that serves as the bases for discriminatory practice. Because the majority of the white Toronto population hold these stereotypes to some degree at least, it would not be unreasonable to conclude that these attitudes are in turn reflected in discriminatory practices in hiring. At least it suggests a potential for the existence of social support for discrimination.

SECTION B. THE ANATOMY OF DISCRIMINATION IN EMPLOYMENT

Discriminatory barriers to the employment of racial and ethnic minorities can operate in a number of different ways. Employers and more specifically personnel management have developed a variety of procedures to recruit, screen, select, hire, promote and discharge employees. They are designed as objective measures of merit to assess and compare one person against another and to judge job performance abilities. They are only rarely designed explicitly to exclude minorities from employment opportunities. More often they have an unintentional side effect of discrimination against racial and ethnic groups. How do they operate?

1. The Recruitment and Selection Process

The majority of employers recruit and select new employees from their local labour market. How employers go about defining their local labour market, how they advertise and get information to prospective applicants, and where they look for new recruits will all have an influence on the racial composition of their work force. Moreover, some procedures can be unknowingly discriminatory under present laws.

Employing organizations use a variety of channels to recruit new employees. They may use the Employment Centre of Employment and Immigration Canada, private employment agencies, they may advertise in the local papers, or internationally if they are large enough, they may post notices on bulletin boards or they may rely on personal referrals.

a) Word-of-Mouth Recruiting

Perhaps the most widely used system of recruitment for large

and small employers alike is word-of-mouth recruiting. [43] It is inexpensive to employers and is the surest way for an employer to find employees similar to the ones currently employed. Word-of-mouth recruitment systems operate to the disadvantage of visible minorities. Studies of methods of finding jobs have found that informal networks (friends or relatives) are the largest single method for people to find new jobs. These informal contacts tend to reproduce the existing structure of employment. Where whites are predominant they are likely to refer other whites for job openings.

The Ethnic Pluralism Study reports that in responses to questions regarding how people found their present job, 28.9% of majority Canadians said they found it through someone they knew who could help. [44] Only 1.5% of West Indians had found their job through someone they know.

b) Walk-ins/Call-ins

Recruitment through referrals is often linked to recruitment through "walk-ins" or "call-ins". This is the practice of receiving enquiries or applications from people over the counter or over the telephone. Applicants may have been told of a job opening or they may simply be trying to find employment by making contact on their own. This practice can have extremely discriminatory impact. Applicants using this method are often rejected arbitrarily by

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43. Benokrates, N.V., and Feagan, Joe - Affirmative Action and Equal Opportunity: Action, Inaction, Reaction, Westview Press, Boulder, Colorado, 1978, p. 77.

44. Breton, R. - The Ethnic Community as a Resource in Relation to Group Problems: Perceptions and Attitudes, op. cit.

"gate keepers" such as switchboard operators and receptionists, many of whom have not been trained to apply objective criteria to determine employment eligibility. Cases such as this are regularly brought before the Ontario Human Rights Commission and accused personnel are often reprimanded by management responsible. But abuse through such a system of recruitment can never be effectively stopped until an alternative system of dealing with all enquiries and applications is established. A non-discriminatory system would ensure that all enquiries are directed to a responsible person in the organization who is competent to deal with them objectively. One method is to require a complete record of all call-ins or walk-ins regarding employment. It is essential that personnel management follow a deliberate and established procedure for all hirings. This would start with the identification of the job in question. A detailed job description would help in the development of personnel specifications. By following an established procedure personnel managers could avoid arbitrary refusals and indirect discrimination and in turn make the best match between job and person.

c) Advertising

Advertising for new employees can have an adverse impact upon minorities if the information on the availability of the job is channelled to places where minority group workers are less likely to get that information. This is a problem particularly for minority group workers who cannot read English effectively. One way around this is to place ads in community newspapers or places where potential minority employees are more likely to get access to the information in their own language.

d) Old Lists of Applicants

Another method of recruitment that has been found to be discriminatory is the use of old lists of applicants. Organizations

that have many more applicants than jobs sometimes maintain a bank of potential applicants for many years and when recruiting anew they draw from the top of this list. Because many of the minority groups experiencing employment discrimination have only recently settled in this country they are at a disadvantage in getting into a favourable position on the list. This form of recruiting for new positions has an adverse impact on minorities. Non-discriminatory recruiting will require that each time new recruits are sought by an employer that new advertising be undertaken with the specific objective of reaching disadvantaged groups, or at least neutralizing the impact of the procedure.

e) Employment Agencies

Employment agencies are often used by employers to recruit new employees especially at the white collar and professional level. A study conducted by the Canadian Civil Liberties Association found that a majority of agencies randomly sampled were willing to accept discriminatory orders for the referral of sales persons for positions.[45] Some agencies even acknowledged over the telephone that they perceived this to be their legitimate role. This practice is clearly illegal and the Ontario Human Rights Commission has taken steps to inform agencies that they are not permitted to discriminate.

Curtailing this kind of discrimination, however, is extremely difficult since the people discriminated against have little or no knowledge of the job they are applying for and therefore do not know if they are actually qualified for the job or if they are being refused because of their race or ethnicity.

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45. Canadian Civil Liberties Association, Letter to Dr. Thomas H.B. Symons, Ontario Human Rights Commission from Alan Borovoy, Fri. Oct. 24, 1975.

2. Screening

If a visible minority individual looking for a job makes it over the first hurdle and is not excluded either intentionally or unintentionally from applying for the job he/she then faces an array of criteria and procedures that are used to judge whether he/she is suitable for the job or more or less suitable than another applicant.

a) The Application Form

The first step is usually the completion of an application form. Most employers regard the application form as an important source of information about a prospective employee at an early stage in the screening process. It is an efficient and inexpensive way to quickly assess the capabilities of applicants. It provides the employer with essential knowledge of work experience and training.

Filling out an application form can be a difficult experience for some racial and ethnic minorities particularly if they have a low level of education or a low level of knowledge of the English language. It is not difficult to understand how new immigrants might have a fear of filling out an application form. They know that the employer will rely on the evidence presented to make the initial judgement of suitability. Many have experienced discrimination in the past and are anxious to find a suitable job.

Employers are often more concerned with the way in which the application form is completed rather than with the information they can get from it. Illegible handwriting, poor spelling or missed information may simply reflect fear or inadequate writing and/or language skills; it may not reflect an inability to perform well on an assembly line or machine press.

Some employers actually use application forms to screen out racial and ethnic minorities. For example, questions relating to place of birth, or birthplace of parents or past education, work history, mother tongue or religion will give the employer an indication of race or ethnicity, although it is not asked for directly. These questions are prohibited by the Ontario and Canadian human rights codes.[46]

b) English Language Fluency

Employers often assess the ability to read, write and speak English effectively with the use of the application form but will also evaluate English proficiency in the interview stage. The majority of jobs in Toronto probably require at least a minimum level of English language proficiency. It may be essential for employee safety to be able to read or understand warning messages, if not for the performance of the actual job. But it is important for employers to assess whether their language proficiency requirements are not too high for what is actually needed to perform a job. A discriminatory effect may result if there is a requirement for a level of written or spoken English which is higher than what is needed for job performance.

c) Canadian Experience

The requirement for Canadian experience can also be a discriminatory device that serves to screen out immigrants who have not had the chance to work in Canada. While the Ontario Human Rights Commission has issued guidelines to employers to prevent them from using the Canadian experience criteria, many still see it as a

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46. This limitation often conflicts with the need to collect information on race in order to assess the effects of special efforts to reduce discrimination or to hire minorities.

legitimate way of assessing job skills. Some employers, of course, are using this criteria intentionally as a way of preventing new immigrants from applying or barring them from the chance for a job once they have applied.[47]

It would be more appropriate to ask for the relevant information directly. This would mean asking for knowledge of the local area if that is required, or familiarity with a certain process of work or machine that is commonly used in Canada rather than assuming that foreign experience is entirely irrelevant.

d) Educational Credentials

Employers sometimes exclude minority immigrants from Third World countries because they find it difficult to evaluate the foreign educational qualifications or work experience. While this may be true, it would be unfair for employers to make no effort to assess foreign credentials. There is a need for employers to have more information about foreign qualifications. But it is also encumbent upon employers to critically review their screening qualifications on foreign experience to see if they really are justified. The employer could lose the potential of acquiring an excellent employee, or it could result in discrimination against a qualified job seeker.

Credentialism can operate in another way to screen out minority employees. Unnecessarily high educational requirements serve as a relatively simple way of screening applicants for jobs in a labour market with high unemployment. The larger the pool of surplus labour available to potential employers, the easier it is for them to

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47. Canada Civil Liberties Association, Letter to Dr. Thomas H.B. Symons, Ontario Human Rights Commission, from Alan Borovoy, November 24, 1975.

arbitrarily determine job performance criteria. Requirements for a minimum level of education such as grade 13 in Ontario will adversely affect certain minority groups. People of Italian, Portuguese, and West Indian backgrounds in Metropolitan Toronto have average levels of education that are lower than majority Canadians and other groups (Table 9).

The most important legal case of discrimination in the U.S., Griggs vs. the Duke Power Company, dealt with the use of high school diplomas as a way of screening job applicants. The Supreme Court

TABLE 9

AVERAGE YEARS OF EDUCATION:
ETHNIC ORIGIN AND SEX,
METROPOLITAN TORONTO 1978 - 79

	Male	Female	Total
Majority Canadian	14.1	13.7	13.9
Chinese	14.1	13.7	13.9
German	14.1	13.1	13.4
Italian	8.2	8.2	8.2
Jewish	13.8	14.1	14.0
Portugese	6.3	6.9	6.6
Ukrainian	12.4	11.6	12.0
West Indian	11.6	11.7	11.7
TOTAL:	11.9	12.2	12.0

Source: Ethnic Pluralism Survey, unpublished

found that more black than white applicants were screened out because of these requirements for a minimum of a high school diploma. Although the company was not intent on excluding blacks, it was found to have discriminated because it could not validate the high school leaving credential as essential to job performance.

Mandatory validation of the use of credentials for hiring is not conventionally in use in Canada although a similar discriminatory impact may be occurring because of the wide-spread use of education credentials by Canadian employers.

e) Selection Tests

Similarly, many employers commonly use selection tests to screen out unwanted applicants. Selection tests may be used to measure aptitude, I.Q., personality, or job performance. There is ample evidence that such testing can have an adverse effect upon minority groups.[48] This may occur because of language difficulties or because of different cultural biases inherent in the test. In addition the use of scores on these tests to measure possible performance on the job may not be valid.[49] In the United States employers are required to use validated tests that have been standardized and assessed for cultural bias and job performance predictability. No such requirement exists in Canada, yet the use of testing to screen applicants for jobs is wide-spread particularly for skilled jobs. This too is one major way in which "systemic" discrimination operates. A seemingly neutral practice can operate to exclude minorities unfairly.

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48. Ontario Ministry of Labour, "Psychological Testing for Employment" Labour Topics, Vol. 4, Number 9, September 1981.

49. Ibid.

f) The Interview

If an applicant succeeds in making it through these stages of the recruitment and screening process, he/she then usually proceeds to the interview. There are problems with the interview as a tool for selection of employees where race and ethnicity are not explicit variables that might account for certain behaviour. The impression a prospective employee makes in an interview with his/her clothing, speech, manner, etc. is probably the most important determining factor in the selection process. Any trained personnel officer will be aware of biases inherent in this process. Immigrants from different cultures will have different culturally based assumptions about the importance of stressing certain aspects of him/herself over others. These may not be the aspects of the person in which interviewers are interested. Communication difficulties may be compounded by the language problems that non-English speaking immigrants experience. They may be further exacerbated by the fear and anxiety of rejection that an applicant has as a result of past discriminatory experience.

A recent case brought to the Ontario Human Rights Commission dealt with this matter. In Malik vs. the Ministry of Government Services, Malik, a man of Pakistani origin, alleged discrimination against his employer because he had been rejected for a promotion on the grounds that he had not performed well in the interview at which a selection test was administered. Counsel for the complainant and the commission argued that the questions on the test to identify such attributes as expression, initiative, reliability and personal characteristics did not take into account cultural behaviour patterns. Although the board of inquiry did not find a case for discrimination against Malik, they were not convinced that the respondant ministry had proven its case of the "absolute necessity

of the interview in the selection process". [50] They noted that considerably more weight should be given to practical job related experience.

Criteria that are used in selection procedures are often vague and general. Attributes such as initiative, ability to learn quickly, good judgement and ability to work well with others can be interpreted in a number of ways. Rarely are such criteria spelled out in greater detail, nor are there procedures for measuring these attributes derived objectively. Interviewers and those responsible for selection are often left to their own devices to interpret these criteria and set their own standards of acceptability. Discrimination in the interview process can result from a conscious or unconscious desire to find someone who "fits in" to the organization rather than someone who can in its strictest sense "do the job". Personnel officers have a large degree of latitude to pick and choose employees based on their own preferences. A bigoted personnel officer can take individual prejudice and turn it into a discriminatory act based on the institutional power vested in him/her by the employer. Organizations should be certain that job selection criteria at this and other stages are objectively derived and applied to determine ability to do the job. Unless this is done the process could be deemed discriminatory and, therefore, unlawful.

3. Promotions

Evidence of discrimination may not only be found in the identification of an under-representation of minority employees in specific job categories. Over-representation of minority employees, especially at the low end of the occupational ladder, often signals

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50. Ontario Human Rights Commission, Annual Report, 1980/81, p. 40.

a lack of mobility and an inability to advance up the occupational or organizational ladder. There can be many reasons for this.

All of the procedures that can act in a discriminatory way in the initial hiring process for new employees, (eg. test scores and credentials) can also be discriminatory in so far as they are used to select individuals for promotions within organizations. In addition, systems of promotion can be discriminatory even though they are not designed as such.

a) Seniority

Separate lists of seniority based on departmental or occupational lines can simply intensify the exclusion of minorities if supervisors or managers are recruited from those departments which have historically excluded minorities. This lack of mobility may be worsened by the existence of separate union locals for skilled and unskilled trades, office and production workers, or professional and administrative groups. Transfer rules may also limit mobility if transferring from one department to another in order to upgrade, requires the loss of seniority. The only way to assure that such promotional barriers do not exist in this systemic way is to have a system plant-wide or organization-wide seniority and non-loss-of-seniority-upon-transfer provisions in order not to penalize minority workers who are stuck in low-status, low-wage departments or occupations. Recruitment systems for advancement within organization require at minimum a system of job posting where information about job opportunities is provided to everyone.

b) Training

The removal of barriers to the advancement of minorities who face major disadvantages in a tight job market may require that

they have access to special training opportunities. These might include provisions for English language training on the job, orientation training, or specific counselling efforts to encourage minority individuals to apply for jobs that they do not believe they could get.

Racism and prejudice prevent minority workers from being considered for supervisory positions because "white workers would not stand for a non-white supervisor". This perception may be more apparent than real, but where it exists it should be dealt with as any other form of direct discrimination. In as much as these attitudes do exist, employers would benefit by instituting awareness training on the nature of prejudice. They might provide information on the diversity of racial and ethnic minority backgrounds in order to overcome the stereotyping of minorities and some of the conflict in the workplace that racism creates.

4. Monitoring and Record-Keeping

Any commitment to develop an equal opportunity program by identifying and removing discriminatory barriers in the recruitment, selection, and promotion process will also require a method of objectively evaluating the effect of present or altered practices. Employers may commit themselves to a policy of non-discrimination but the only way to assess the effectiveness or sincerity of the effort is to institute a thorough evaluation of the effect of specific practices on minority groups. This would require detailed record-keeping on the racial and ethnic backgrounds of all applicants as well as on existing employees.

The issue of record-keeping of racial and ethnic backgrounds is often an emotional one for employers and minorities alike. Keeping records of minority groups status may be discriminatory in itself if the information thus gathered is used unlawfully. These records have

been used by employers to exclude minorities. Under present legislation it is illegal to ask for race or ethnicity at the pre-employment stage, although once a person is employed this information can be collected and maintained.

There is good reason to believe that under the right conditions record keeping can be an effective tool for evaluating the efforts of organizations to develop non-discriminatory practices. There is, of course, always the potential for abuse of such information, but if we accept the premise that discrimination is already a widespread problem, the potential benefits of collecting data for improved objective evaluation of performance may outweigh the costs. If the reason for collecting data on race and ethnicity is clearly articulated to prospective and current employees then there is a greater potential for an acceptance of this procedure.

There are several methods of undertaking record keeping and several stages at which it would be most useful. For an organization interested in assessing the degree of racial and ethnic employment in the organization, the first stage would be to conduct a survey of all employees. This would allow the organization to judge whether minorities are utilized in the organization to the degree that they exist in the larger community. A recent study of employees by the City of Toronto found that only 6.7 percent of the City's work force were identified as belonging to a visible minority group; blacks, Asians, South Asians, South East Asians, Canadian Indians, Metis and Inuit.[51] The city also undertook and assessment of the size of the visible minority population in Toronto and found it to be 12 to 20 percent of the population of Metropolitan Toronto. This led to the conclusion that visible minorities are under-represented in jobs at

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51. City of Toronto, Equal Opportunity Employment Utilization Study, Toronto, 1981.

52. Ibid.

City Hall. Specific measures to improve the employment opportunity of minorities are being instituted and after several years a new survey will be required to assess the effectiveness of the program.

While this method is an important first step for organizations interested in equal opportunity it has its limitations. A survey is a one-time procedure and is often expensive and time-consuming. Any ongoing monitoring would require an additional survey and each would only be a point-in-time picture of the situation.

A more effective method is to maintain a "bank" of information in the personnel records system. This would allow an organization to have an ongoing record of the racial composition of its work force. The Ontario Human Rights Commission requests that any organization wishing to set up any monitoring and record-keeping system should have it approved by the commission.

Both of these methods of assessing the utilization of minorities in the workplace are useful for an organization and for human rights authorities to make an assessment of the overall performance of the organization as an equal opportunity employer. They are legal under existing human rights laws because they are post selection records; that is, they are collected once the person has been chosen for the job. Their weakness is that they do not allow for an assessment of the minority composition of those who were rejected. They are not very useful, therefore, for <u>measuring the impact</u> that specific procedures have on potential employees.

Keeping records of all inquiries or applicants for a job is really the only effective method of determining whether any particular stage of the selection process is adversely affecting minorities. It is possible to avoid the misuse of information on

race and ethnicity if these records are kept separate from the information that is available to those undertaking the selection. In any case, racial or ethnic background is almost always identifiable from other information such as name, education, or work experience. The keeping of pre-employment records is simply the formalization of a recording process that goes on in everyone's mind informally. It takes this information and makes it available for systematic review of each stage in the selection process. This makes it possible to identify in an objective manner the impact each stage is having on minority groups. If adverse impact is identified then an assessment of the job relatedness of the criteria can also be evaluated to give a clearer picture of the existence of a discriminatory practice.

The best method of keeping pre-employment records is for the original "gate-keeper" to identify the race or ethnicity of the person making the job application or inquiry. Because this is illegal under most circumstances another method is for the person to self-register with a person or department that is responsible for equal opportunity programs. The person can be directed to the relevant department by the original gate-keeper. The problem with this method is that incomplete records are likely to be the result since many individuals will not want to register with another contact in the organization. It also increases the cost and the bureaucracy of the whole process and could only be carried out in large organizations.

The method by which information is collected is also a problem. There are basically two methods: observer identification, or self-identification. With observer identification the person who is the gate-keeper records what they believe to be the race and or ethnicity of the applicant. With self-identification the person making the application is asked to make the classification her/himself. With the first there exists a problem of subjectivity, with the second there is a problem of possible offence taken by the person

asked. It is possible to overcome these problems by effective training of people doing the identification, or by explanation to the job applicant as to the reasons the information is required.

The collection of information alone does not imply commitment to a program to remove discriminatory barriers. It does provide employers and human rights bodies with information on the impact of hiring policies on minorities without which it would be difficult to identify problems. During the 1960's Canada dropped its racial designation question from the census on the assumption that because Canada was not "race conscious" keeping data on racial differences was irrelevant. It might be time to reverse that position and acknowledge the reality of the discrimination and race consciousness that already exists in Canadian society.

C. SOLUTIONS

1. Guidelines for Hiring and Promotion

It should be clear that the complete process of recruitment, selection and promotion is rife with the possibility of bias against minorities from beginning to end. It requires a person familiar with the discriminatory aspects of personnel management and cross-cultural communication problems to be able to identify these barriers. A commitment to formulate objective job-related criteria that will remove, as much as possible, the subjective element from the hiring process requires considerable time and resources. Very few employers engage in this kind of review of their hiring practices even if they do perceive discrimination as a problem.

The removal of disadvantage and discrimination from the employment system requires extensive guidelines for employers to follow and rigorous enforcement of those guidelines. Such guidelines already exist to a limited extent. Federal and provincial Human Rights Commissions publish guides for employers that set forth procedures that are allowed and disallowed. [53] Employers interested in equal opportunity would do well to implement employee selection procedures based on these guidelines. But the development of non-discriminatory hiring procedures in Canada is sadly deficient. Existing guidelines are often vague and general, and they cover only a part of the complete screening process. For the most part, they provide basic information on the operation of the human rights commissions. There is a need for detailed guidelines to be developed and they need to be enforceable. Part of the problem as it stands in Canada is the lack of a solid foundation in case law on the systemic aspects of discrimination. As more cases are brought to human rights

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53. Canadian Human Rights Commissions, Employer Guide, Supply and Services, 1981.

bodies, and as further research into the racial/cultural biases in the employment system is undertaken, human rights bodies may be able to more effectively require that employers comply with the law against discrimination.

a) Hiring Guidelines of the EEOC

In the United States the Equal Employment Opportunity Commission is the federal agency responsible for the implementation of federal anti-discrimination legislation. The EEOC issues detailed and uniform guidelines that are intended for use by employers, psychologists responsible for studying the validity of selection criteria, federal investigators and other enforcement officers. The guidelines apply to all aspects of hiring, retention, promotion, transfer, demotion, dismissal, or referral. They cover employee selection procedures and include job requirements such as height and weight, education and experience, and the evaluation of employee candidates through the use of application forms, interviews, performance tests, paper and pencil tests, performance in training programs or probationary periods as well as any other procedures used to make an employment decision whether by the employer directly or by an employment agency. [54]

The guidelines set out criteria for the measurement of adverse impact against minorities, definitions of the terms "applicant" or "candidate" and the precise manner in which specific job requirements are to be interpreted and used. It also specifies how requirements that have been determined to have an adverse impact

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54. Equal Employment Opportunity Commission, Adoption of Questions and Answers to Clarify and Provide Common Interpretation of Uniform Guidelines on Employee Selection Procedures, Federal Register, Friday, March 2/79, p. 11997.

should then be validated. Validation, according to the guidelines, is "the demonstration of the job relatedness of a selection procedure". [55] It recognizes the same three validity strategies as those recognized by the American Psychological Association:

1) Criteria-Related Validity - a statistical demonstration of a relationship between scores on a selection procedure and job performance of a sample of workers.
2) Content Validity - a demonstration that the content of a selection procedure is representative of important aspects of performance on the job.
3) Construct Validity - a demonstration that: (a) a selection procedure measures a construct (something believed to be an underlying human trait or characteristic, such as honesty), and (b) the construct is important for successful job performance. [56]

These guidelines provide uniform standards to be used by all organizations, large or small, that are engaged in employee selection. For large organizations reporting requirements are more rigorous than for smaller organizations (less than 100 employees) because of the resources required to comply. All organizations are minimally required to keep records of employment enquiries and applicants in order to objectively assess adverse impact. Only if an adverse impact is found to exist will the procedures and requirements for validation of selection criteria come into play.

b) The Attitudes of Employers

The implementation and enforcement of these guidelines have understandably resulted in some resistance on the part of employers

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55. Ibid., p. 12001.
56. Ibid.

who see this as a bureaucratic burden that undermines their business efficiency. Developing a consciousness about discrimination in the hiring process, and developing corrective measures puts a drain on a company's resources. Employers in Toronto and elsewhere in Canada have the same kind of reluctance, particularly when the issue relates to visible minorities.

Besides the goal of social justice, however, there are other considerations which should be considered by employers. Compliance with the law protecting minorities against discrimination requires that employers closely scrutinize their entire employee selection procedure. Otherwise they are potentially open to a claim of discrimination, an act which can in itself result in a monetary damage imposed if a human rights board of inquiry finds a case of discrimination against it. But perhaps even more important from the point of view of the employer is that discrimination in the workplace can be one of the roots of poor industrial relations. Unresolved conflict between managers and workers or between workers and workers is something that all employers should be concerned about because of its implications for employee morale, high-turnover, absenteeism and, ultimately for the productivity of the organization. Finally, any organization interested in finding the best possible human resources would want to assure that all barriers to the employment of the "best person for the job" be removed. The best way to achieve this goal would be to have in place the most objective measures possible for employee selection. A policy of non-discrimination can be an impetus for the development of more effective human resource planning within an organization. The importance of detailed guidelines is that they raise the consciousness of employers with respect to the discrimination issue.

2. Special Program/Affirmative Action

a) The Need for Affirmative Action

The experience in the United States with minorities, and to some extent in Canada with women, has been that simple passive non-discrimination has been insufficient to increase the employment experiences of these groups.[57] Nor does a passive non-discriminatory practice restore groups that have been excluded historically to their rightful place in jobs. There appears to be a need for more aggressive efforts to remove all discriminatory barriers, however subtle and informal, and more positive efforts to select minorities for jobs from which they have been excluded in the past.

The term "affirmative action" is widely used to describe any government fostered or voluntary effort by a public or private organization to go beyond the cessation of discriminatory practice alone. In Canada affirmative action efforts have focussed mostly on the disadvantage experienced by women, the disabled and native Canadians. Evidence suggests that affirmative action might also be an appropriate response to the problem of racial and ethnic discrimination in employment.

The Parliamentary Task Force on Employment Opportunities for the 1980's recently recommended that with respect to women, natives, minorities and the handicapped:

> "The Federal Government should encourage affirmative action programs in the private sector and have a contract compliance policy according to which it would only purchase from and contract with those

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57. Benokrates, N., Feagin, Joe - Affirmative Action and Equal Opportunity: Action, Inaction, Reaction - op. cit.

> employers who adhere to the human rights code and who have an affirmative action program as part of their corporate policy." 58

b) Legislative Provisions for Affirmative Action

Both the Canadian Human Rights Code and the Ontario Human Rights Code are permissive rather than prescriptive where special programs of affirmative action are concerned.[59] They both allow for the development of special programs to increase the employment of special groups, but they do not require that an employer undertake such a program even where a board of inquiry identifies a long history of discriminatory practice. The intent of these provisions is to make absolutely clear in law that a special program to prevent disadvantage, or to eliminate existing disadvantages by increasing the employment opportunities for minorities, does not constitute what has been called "reverse discrimination".

Affirmative action is a voluntary program on the part of employers. There has been considerable pressure on government to adopt legislation making affirmative action mandatory in the case of women, the disabled and native people because of the belief that voluntary compliance has not worked to change the actual employment situation of those groups. There is evidence furthermore, that mandatory affirmative action has at least had some success in the United States in improving the employment and wages of blacks and women.[60] But there remains considerable opposition to any form of legislated requirement to affirmative action because of the cost

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58. Parliamentary Task Force on Employment Opportunities for the 80's, Work for Tomorrow, 1981.,p. 98.

59. Canadian Human Rights Commission, Special Programs: Typology and An overview of Affirmative Action In Canada, Discussion Paper, Mimeo, Jan. 1979.

60. Task Force on Labour Market Development, Labour Market Development in the 1980's, Employment and Immigration, 1981, p. 108.

involved and because of the fear that mandatory affirmative action means "quota hiring".

c) Preferential Treatment

The issue of preferential treatment of minorities to compensate for past exclusionary practices is not yet on the agenda in Canada. The issue is both complex and highly emotional. Although the ability to hire by "quota" has not yet been put to the test in Canadian courts there is reason to believe that hiring on the basis of non-job related criteria alone such as race or ethnicity is probably illegal. This does not preclude the admissibility of a system of preferential hiring of minorities even if it involves numerical goals and timetables to guide the hiring of all personnel in order to correct the under-utilization of minorities in organizations. Such a system would have to be flexible so that it does not exclude any specific non-minority individual. In other words whites could still expect to get jobs but the competition would be tougher. Such a system would include race or ethnicity as only one, albeit important, variable in the criteria for employee selection. It must also be remembered that in-so-far as discrimination exists to systematically exclude visible minorities, the system of employment is treating non-visible minorities in a preferential manner.

The United States Civil Rights Commission makes a distinction between a "quota" system, and one employing "goals" and "timetables".

> "Under a quota system a fixed number or percent of minorities is imposed upon the employer who has an absolute obligation to meet that fixed number. No excuses are accepted."

While goals and timetables:

> "are result oriented procedures by which the employer - subject only to the requirement that the targeted results are as reasonable as can be expected - determines goals and a time schedule for correcting minority under-utilization, and then makes every good-faith efforts to hire more minority individuals.
>
> In a sense goals and timetables represent a shifting of the burden of proof from the government to the employer on the question of whether or not the employer used good-faith efforts to hire minority individuals". 61

d) Mandatory Affirmative Action

Putting forward the argument for mandatory affirmative action in Canada, the Federal Task Force on Labour Market Development states that:

> "the work undertaken for the Task Force indicates that a program can operate efficiently without resort to the use of quotas, and has indicated a number of possible approaches to implementation which would greatly reduce the potential for high legal costs."

and,

> "a large fraction of larger Canadian firms have already begun to institute human resource

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61. Comparative Labour Law Group, Discrimination in Employment, ed. Schmidt, F., Almgrist & Wiksell International, Stockholm, 1979, p. 98-99.

> planning systems, so that - as long as affirmative action measures build on their systems - additional costs are likely to be low."

and finally,

> "while the potential for putting firms at a serious competitive disadvantage is present in those sectors subject to strong international competition, for other sectors of the economy mandatory action would actually improve the competitive position of firms making efforts to employ target groups by eliminating the "free rider" effect." 62

There is evidence that mandatory affirmative action has had the effect of raising the level of human resource planning and in-home training by firms in the United States often to the benefit of non-minority groups. [63] A similar positive effect might be realized in Canada where human resource planning with labour and management remains relatively under-developed. This might be expected to make some contributions to lowering unemployment and improving economic performance in Canadian firms.

e) Kinds of Affirmative Action

There are a range of possible affirmative action plans. In fact, the development of an effective plan will be particular to each organization. Any plan will begin with a detailed audit of the workforce and of all aspects of the recruitment and selection process. Any practices that have an adverse impact, or are not job related need to be replaced by non-discriminatory practices. Special measures can then be developed to ensure that the past effects of discrimination are remedied.

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62. Task Force on Labour, Market Development, Labour Market Development in the 1980's, op. cit., p. 107-108.

63. Ibid., p. 108.

Special efforts might focus on a more active recruitment program for minorities that would include job advertisements in minority newspapers, or establishments of links with minority organizations or with employment agencies that specialize in the recruitment of minorities. It might include advertising as an equal opportunity employer to encourage applicants who would not normally consider applying.

Special efforts might also be instituted to provide training for minorities in order to remove the disadvantages they sometimes experience as a minority in a workplace. This could include special orientation training or the teaching of English as a second language in the workplace during work hours.

Finally, a plan of action would be developed that would assist the organization to hire minority employees over a period of several years in order to reach some specified goal. For example, an organization that finds that two percent of its work force can be identified as visible minorities might establish a goal of 15 percent to be reached in five years. This goal and the specific actions to be taken in order to achieve it would be worked out with the departmental heads involved and would be consistent with the established (mostly economic) goals of the organization.

The solutions to the problems of racism and discrimination are not only attitudinal they require specific changes in the behaviour of organizations. Ultimately, attitudinal changes are essential, and programs to inform and educate those in a position to hire employees are required. But the short term goal of public policy has to be to change the practices of employers. Voluntary compliance with the goals of affirmative action may be the most desirable option for employers faced with the alternative of a

bureaucratic imposition of a program. But it is easy for employers to pay lip service to the goals of affirmative action without making an actual commitment to an effective program. Thus it seems essential that human rights bodies become much more vigorous in the enforcement of anti-discrimination legislation. It also seems essential for reasons of business efficiency, as well as for reasons of social justice, that human rights bodies have the power to impose remedies to correct the under-utilization of racial and ethnic minorities in employment as a result of past exclusionary practices.

3. Economic Decline and Discrimination in Employment

Despite the importance of legislation, enforcement, and programs to alter the practices of employers, there are real limitations to these options for the overall improvement of employment conditions for minorities. A comment by the Ontario Human Rights Commission in their 1980-81 Annual Report suggests why:

> "The high percentage of race and colour complaints shown in commission statistics over time reveals a prevalence of racism or discrimination on the basis of visible characteristics. There is a growing tendency in a period of high unemployment and a tight economy for employers to select job applicants on the basis of physical attributes rather than merit. Here, attitudes are characterized by stereotyping and scapegoating members of non-white minority groups, and blatant discriminatory conduct is the result." 64

The roots of discriminatory practices and racism are to be found in the economic conditions of society. When job opportunities are scarce and there is a surplus pool of labour for employers to draw upon, employers can more readily use superficial criteria such

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64. Ontario Human Rights Commission, Annual Report, 1980/81, op. cit., p. 13.

as race, sex, age, and ethnicity to select employees rather than using objective criteria of merit. This in turn gives the impression to all workers that they are pitted against workers of different racial and ethnic backgrounds in the competition for jobs. Thus prejudicial attitudes emerge to reinforce the artificial divisions that are created as a result of conditions of scarcity and wage inequality. Minorities are stereotyped as less desirable workers in a variety of ways (eg.,laziness, unreliability, dim-wittedness, uncleanliness, etc.) and they are used as scapegoats for the problems of government policy and a system that encourages unemployment.

The status quo of unemployment and wage inequality is accepted as a fact of life, one of the inherent features and indeed benefits of our economic system. Individuals do not have inherent rights to jobs. Wage inequality and poverty are viewed as essential to maintain incentives to work. If employment and wage inequality are seen as not inevitable but rather as the result of specific policy choices of the private and public sector, then the solution to the problem of discrimination in employment will be found in changes in economic conditions.

There is serious cause for concern at this stage in the social and economic development of Metropolitan Toronto. Increasingly Toronto is a multi-racial/multi-ethnic society. At the same time the economic security that may have existed in earlier years is being eroded. There are almost 90,000 people in the Metropolitan Toronto area who are without work and who are looking for work. [65] There are another 20,000 - 30,000 people without work who have given up looking for work because they do not believe that any is available to them. [66] And there are a further 40,000 - 50,000 people who

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65. Statistics Canada, The Labour Force, Cat. 71-001, December 1981.

66. Social Planning Council of Metropolitan Toronto, "Unemployment in Toronto: Hidden and Real", Working Papers for Full Employment #1, Toronto, 1980.

are working part-time who would like full time work. [67] Unemployment is on the rise. There are many economic forecasts that see joblessness getting much worse before it gets better.

While Toronto continues to experience a relatively strong growth in the number of jobs, optimism about this trend should be tempered with a view to the kinds of jobs that are being created. Nearly half of all new jobs created in the Toronto area since 1980 were part-time jobs. [68] There was virtually no growth in high wage sectors such as manufacturing. Most new jobs were created in the low wage, low security service sector of the economy. Layoffs continue to occur in the manufacturing sector on a scale that should be considered a crisis. In particular, layoffs are troublesome for minority workers, especially new immigrants, as they are often the last to be hired, and because of the seniority principle, the first to be let go.[69]

These economic conditions make it exceedingly difficult for any specific efforts to remove discriminatory barriers, or for affirmative action to be successful. The only way of effectively eliminating discrimination in the long term is by removing the reasons for discrimination in the first place. A reduction of unemployment and the achievement of greater wage equity would reduce poverty and help eliminate the competition for jobs. This is the key to the elimination of racial and ethnic discrimination in employment. Policies to counter racism and discrimination would start with a commitment to full employment, and the right to work for everyone.

67, Ibid.

68. Statistics Canada, The Labour Force, Cat. 71-001 - various months.

69. Social Planning Council of Metropolitan Toronto, "Layoffs and Unemployment, Job Retention as a Policy Issue", Working Papers for Full Employment, #2, 1980., p. 20.

SECTION D. SUMMARY

The Evidence

Patterns of immigration to Canada have changed dramatically over the past ten years. The majority of new immigrants to Canada, and especially to Toronto, are now coming from third world countries. Most of these are "visible minorities". The most recent estimate of the size of Toronto's visible minority population includes 200,000 to 230,000 blacks, 100,000 South Asians, 100,000 to 150,000 Chinese, and 25,000 native people. The percentage of visible minorities relative to the rest of the population in Metropolitan Toronto is estimated to be 12 percent at the low end and 20 percent at the high end. Increasing allegations of racism and discrimination have accompanied the growth of the population of visible minorities in Metropolitan Toronto.

Discriminatory practices against racial and ethnic minorities and other groups have a long history in Canada. Discrimination on the basis of race and ethnicity has been illegal in Ontario since the enactment of the Ontario Human Rights Code twenty years ago. But an official commitment to equal rights, and the realization of this principle in the behaviour of the institutions of society, are two separate matters. The very fact that discrimination is officially condemned makes its identification that much more difficult.

The concept of discrimination has evolved through several stages. Its first legal definitions required that any act to cause harm to an individual who was a member of a group had to be based on demonstrated ill-will or intent to harm solely because of memebership in that group. This evolved into the idea

that an evil motive was not necessary for discrimination to occur if groups were treated unequally, or minorities were treated less favourably. More recently, the concept of discrimination has incorporated the idea that even equal treatment can be discriminatory because of cultural or racial biases. This notion of "systemic" discrimination is based on the landmark case in the United States of Griggs vs. the Duke Power Company. It suggests that discrimination can occur if seemingly neutral practices that have an adverse impact against minorities are at the same time not related to job necessity. The equal treatment of minorities with respect to, for example, height and weight, can be discriminatory, if the use of these requirements disproportionately exclude minorities, and if they are found to be unnecessary for job performance. Increasingly, this legal definition of discrimination is being applied by human rights bodies to cases of discrimination in Canada.

Some ambiguity exists with respect to the identification of discrimination. Minorities may be at a disadvantage because they lack appropriate job qualifications, but exclusion as a result of this requirement would not ordinarily be termed discrimination. In assessing discrimination, an attempt must be made to "separate out" job qualifications from other factors affecting job success.

We have considered three kinds of evidence of discrimination against racial and ethnic minorities in employment: social data; human rights caseloads; and studies of perception and attitudes of minority and majority group members alike.

While most studies of immigrant mobility in Canada have found that immigrant groups occupying low "entrance status" have achieved

upward mobility at least in the second generation, the evidence suggests that this pattern of mobility is not also true for visible minority groups (eg.,blacks, Asians, and native Canadians). We have considered five sources of survey data: the 1971 census, a 1969-71 survey of recent Canadian immigrants, a 1969-70 survey of male heads of households in Toronto, the 1976 census, and the 1978-79 Ethnic Pluralism Study for Toronto.

A 1978 study by Richmond and Verma found considerable mobility for European immigrants and Asians but not for persons of "black and mixed racial origins". Age and education differences were controlled in this study. A 1980 study of low income and ethnicity by Richmond and Kalbach, using the same 1971 census, found that the incidence of poverty was "probably greatest among very recent immigrants, pre-war immigrants and third-plus generation Canadians who belong to visible racial minorities such as Native Indian, black and Asian groups". A study by Marr found that in 1971 third world immigrants to Ontario had rates of unemployment that were double those for other immigrant groups.

A 1969-71 survey of immigrants conducted by Manpower and Immigration found that compared to other immigrants, third world immigrants experience higher rates of unemployment, earn less money, and are more frequently unable to find work in their chosen fields of work.

Goldlust and Richmond analyzed a 1969-70 survey of male heads of households in various ethnic groups in Toronto. After controlling for social origins, years of education, present occupational status, age, years of residence in Toronto, and years of post secondary education, they found that Asians and blacks under-earn considerably more than any other group, given equivalence of job related characteristics.

A special tabulation of the 1976 census by the Social Planning Council of Metropolitan Toronto found that the rate of unemployment for those who claimed to have an Indo-Pakistani mother tongue was 12 percent, or double the average.

The 1978-79 Ethnic Pluralism Study of males and females from various ethnic and racial groups in Toronto provides the most recent evidence of labour market status for various ethnic groups in Metropolitan Toronto. The analysis by Reitz et. al. involved separating differences due to education, work experience, and knowledge of English from other differences by means of regression analysis. The results showed that males in some immigrant groups, especially Italians, earn very high incomes in relation to their education. Chinese men under-earn by about $500 per year compared to majority Canadian, and West Indian black men under-earn by $2,400 compared to majority Canadians. The inequalities experienced by women are even greater. Chinese women under-earn by $3,500 and West Indian black women under-earn by $3,800 compared to what would be expected given their job qualifications. These data strongly suggest that visible minorities including South Asians, blacks, and native people are experiencing wide spread discrimination in jobs in Metropolitan Toronto.

Evidence from the Ontario Human Rights Commission reinforces this belief. Of the total of 893 cases brought to the commission in 1980/81, 84 percent were complaints of discrimination in employment. Almost half of these cases related to employment discrimination were on the grounds of race or ethnicity. Thus 40 percent of all cases handled by OHRC were on the grounds of racial or ethnic discrimination in employment. This is the largest single complaint category dealt with by the OHRC.

Studies of attitudes and perceptions of various ethnic groups have found important variances in the perceptions of discrimination in employment. Analysis of the 1978-79 Ethnic Pluralism study by Breton found that 28 percent of West Indian and 29 percent of Chinese perceived themselves to have experienced discrimination in employment. The same study shows that almost 80 percent of majority Canadians perceive employers to be discriminatory against West Indians in Toronto.

The Anatomy of Discrimination in Employment

An anatomy of discrimination in the process of employment starts with the understanding that discrimination can be intentional but is rarely designed as such. More often procedures to recruit, screen, select, hire, promote and discharge employees have the unintentional side effect of discrimination against racial and ethnic groups.

The way in which an employer recruits applicants for jobs can have an adverse impact on minorities and can be discriminatory if the employer does not set out to recruit minority applicants in a systematic manner. Word-of-mouth systems of recruitment can serve to exclude minorities if the existing work force of the employer is all white. Similarly, traditional methods of advertising for new employees can be discriminatory if minority individuals are adversely affected in hiring by the relative lack of information they receive of new job openings.

A system of recruitment by call-ins or walk-ins can be discriminatory if arbitrary power to hold-back or distort information is vested in the initial "gate-keeper". There is evidence that recruitment through employment agencies can be discriminatory because many employment agencies see it as their rightful job to screen out minority applicants.

If an individual makes it to the selection procedure she/he meets a range of hurdles that can similarly have an adverse impact upon minorities. The test is whether these selection criteria are good indicators of job performance. The application form is one case in point. New immigrants may have problems with filling out an application form because of language or literacy difficulties, yet their ability to perform on an application form may have little to do with how they perform on the job. Canadian experience is a criteria used by many employers as a way of screening out new immigrants from jobs, yet its necessity as a job-related criteria is always questionable. Educational requirements are probably highly over-used. Excessive credentialism can have an adverse impact upon minorities, especially immigrants with less education than majority Canadians. Many selection tests have been found to have both a cultural/racial bias, as well as to be not related to ability to perform a job. Yet tests are used extensively by employers to select new employees.

The interview is usually the last stage of decision-making for employment. It is the point at which important "impressions" are made of prospective employees. Because much of the decision-making in the interview involves using such subjective criteria as "honesty", "initiative", "ability to work with others" and how they will "fit in", they can easily be vulnerable to cultural and racial bias.

While minorities seeking new employers face this plethora of potential discriminatory barriers, these barriers are similarly encountered by individuals seeking a promotion with an employer. Many of the same recruitment and selection procedures are used by employers for purposes of promotion within their organizations.

Solutions

Very few employers are aware of the unintentional cultural/racial bias inherent in these systems of employment. The removal of disadvantage and discrimination from the employment system requires that there be extensive guidelines for employers to follow and rigorous enforcement of these guidelines by human rights enforcement agencies. Such guidelines are sadly deficient in Ontario at this time. Canadian human rights bodies can learn from the experiences of the United States. American guidelines for employers specify in detail what is allowed and disallowed at every stage of the employment process. Such detailed guidelines and a willingness to reinforce them would serve to raise the consciousness of employers as to the discriminatory possibilities of even the most seemingly neutral personnel practices.

Efforts to remove unfair bias from the employment system will require a method of objectively evaluating the effects of present or altered practices of employment. Although the issue of record-keeping of racial or ethnic background of employees and applicants for employment is often an emotional one for employers and minorities alike, the collection of such data is essential to any efforts to evaluate a program of non-discrimination. The collection of racial and ethnic background data is illegal under most circumstances and with good reason; it has been used intentionally to discriminate against minorities. But it is possible to collect information in a way that is not offensive to minorities, and not inherently discriminatory. Changes to the laws regarding record-keeping may be an important pre-requisite to effective enforcement of non-discrimination laws.

Experience has shown that the simple removal of discriminatory barriers may be insufficient to increase the employment experiences of minority groups. Nor does passive non-discrimination restore groups that have been excluded historically to their rightful place in jobs. There is a need for more positive efforts to select minorities for jobs from which they have been excluded in the past. This concept has been referred to as "affirmative action" and can mean anything from awareness training of personnel officers to a detailed program for the hiring of specific numbers of target group employees.

Affirmative action is permitted in Ontario both under federal and provincial legislation. The intent of the legislation is to make absolutely clear in law that special programs to prevent disadvantage or to eliminate existing disadvantages by increasing the employment opportunities for minorities does not constitute what has been called "reverse discrimination".

The issue of preferential treatment to compensate minorities for past exclusionary practices is not yet on the agenda in Canada. The issue is both complex and emotional. Although the ability to hire by "quota" has not yet been put to test in Canadian courts, hiring strictly on the basis of non-job-related criteria such as race or ethnicity is probably illegal just as it is in the United States and Britain. However, this does not mean that a system of preferential hiring of minorities will be discriminatory even if it involves numerical goals and timetables to correct the under-utilization of minorities in organizations. Such a system would have to be flexible so that it did not exclude any specific non-minority individual and would include race or ethnicity as only one, albeit important, variable in the criteria for employee selection. It must also be

remembered that in so far as discrimination exists to systematically exclude visible minorities, the system of employment is treating non-visible minorities in a preferential manner.

Affirmative action in Ontario is an entirely voluntary action on the part of employers. Legislation governing affirmative action in Ontario is permissive rather than prescriptive. It allows for the development of special programs of affirmative action but it does not require such a program under any circumstances. The Human Rights Commission may only recommend that an employer undertake an affirmative action plan where a clear case of discriminatory practice has been established. The experience with affirmative action in Canada has not been effectively evaluated. With respect to women, it does appear that voluntary compliance with affirmative action objectives is not entirely effective. This evidence may suggest a need for stronger enforcement of existing anti-discrimination legislation and the ability to impose mandatory affirmative action on employers.

The solutions to the problem of racism and discrimination are not only attitudinal. They require specific changes in the behaviour of organizations, independent of the consciousness of individuals in those organizations. Ultimately attitudinal changes are essential but the short-term goal of public policy must be to change the practices of employers. This can only be done with the rigorous enforcement of anti-discrimination statutes, and considerable education of employers on the systemic nature of discrimination. It may also require the imposition of remedies to correct the under-utilization of racial and ethnic minorities as a result of past exclusionary practices.

But the only effective way of eliminating discrimination

in the long term is to remove the reasons for discrimination in the first place. The roots of discriminatory practices in employment are to be found in the scarcity of job opportunities available to people needing work. The existence of unemployment, and occupational and wage inequities, means that employers can use superficial criteria such as racial and ethnic background to select employees from a surplus pool of labour. This in turn gives the impression to all workers that they are pitted against workers of different racial and ethnic backgrounds in the competition for jobs.

The present trend toward economic decline and higher unemployment will likely intensify racism and discriminatory employment practices. A reduction of unemployment and the achievement of greater wage equity would serve to eliminate the competition for jobs and poverty and is, therefore, the key to the elimination of racial and ethnic discrimination in employment. Policies to counter racism and discrimination of necessity would start with a commitment to full employment, and the right to work,for everyone.